

REMARKS / ARGUMENTS

Claims 1-22 and 24-31 remain pending in this application. Claim 23 has been canceled without prejudice or disclaimer. New claims 27-31 have been added.

35 U.S.C. §§102 and 103

Claims 1, 3, 7-8, 11 and 12 stand rejected under 35 U.S.C. §102(b) as being anticipated by Lumb et al (U.S. Patent No. 5,126,182). Claim 3 stands rejected under 35 U.S.C. §102(b) as being anticipated by Sagel et al (U.S. Patent No. 4,482,593). Claims 25 and 26 stand rejected under 35 U.S.C. §102(b) as being anticipated by, or in the alternative, under 35 U.S.C. §103(a) as being unpatentable over Lumb et al. Claims 15, 17-18 and 20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Norton et al (U.S. Patent No. 2002/0012784) in view of Litchfield et al (U.S. Patent No. 6,237,251). Claims 19, 21 and 23-24 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Norton et al in view of Tucker et al (U.S. Patent No. 5,970,629). Claims 2, 4-6, 9-10, 16 and 22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Norton et al in view of Rock et al (U.S. Patent No. 6,602,811). Finally, claim 14 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Kinlaw et al (U.S. Patent No. 5,035,943) in view of Rock et al. These rejections are traversed as follows.

All of the pending claims recite the presence of shaped and/or hollow fibers. None of the cited references disclose this feature of the present invention. The

cellular elastomeric can have the structure disclosed in U.S. Patent No. 6,074,966 to Zlatkus.

Lumb et al disclose the application of an adhesive barrier material such as aluminum wax (Col 3, lines 52-53). In addition, Lumb et al use a foamed adhesive having pores that are large enough for water vapor to pass therethrough. This disclosure seems to be directed to polar fleece materials.

On the other hand, the present invention does not use a foamed adhesive or a barrier material. The present invention does employ a frothed foam which is not an adhesive. It is a chemical reactive polymer foam poured over a moldable polymer mesh. The claims have been amended to recited the breathable and moisture transfer characteristics of the composites. Furthermore, some of the claims recite "reversible enhanced thermal properties" and "phase change molecules". These phrases are directed to the adjusting to temperature changes in a specific way that is not otherwise inherent in materials mentioned by the Examiner.

None of the remaining references disclose or suggest the above-mentioned features of the present invention. Norton et al teaches a first layer of thermoplastic foam. The present invention does not use thermoplastic a thermoplastic materials. Thermoplastic does not transfer moisture or breathe, it is a moldable plastic, like a shell boot exterior for a skate or an alpine boot. Norton et al teach a thermoplastic foam abutting a thermoplastic urethane. Both of these layers are hard, stiff, non-breathable molded polymers shell materials. The mesh used in the present invention is a flexible breathable polymer mesh inserted into a foam layer.

The Examiner merely relies upon Litchfield for a disclosure of an open-cell foam. The Examiner merely relies upon Tucker for disclosing a water-repellant, water-proof fabric. The Examiner relies upon Rock et al for disclosing removing moisture from the skin and antimicrobial properties. Nevertheless, the deficiencies in the primary reference to Lumb et al are not overcome by these secondary references.

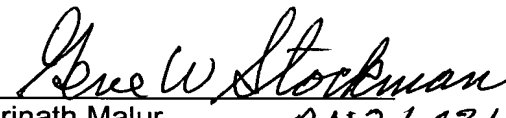
In addition to not being analogous art to footwear composites, Sagel and Kinlaw do not disclose or suggest all of the present claim limitations. As such, it is submitted that the pending claim patentably defines the present invention over the cited art.

Conclusion

In view of the foregoing, Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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